STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO:

All Certified Tax Representatives and Assessing Officials

FROM:

Barry Wood, Assessment Division Director ぬるW

RE:

Level III Requirements for Certified Tax Representatives

DATE:

October 17, 2013

Per 50 IAC 15-5-2 (c) (3) (copied below), a Certified Tax Representative must have attained his or her Level III Assessor-Appraiser certification by December 31, 2013 in order to maintain Certified Tax Representative status. A current Certified Tax Representative who fails to obtain the Level III certification by December 31, 2013 may have their Certified Tax Representative status revoked, and, therefore, cannot represent taxpayers in property tax appeals until his or her Certified Tax Representative status is reinstated.

In 2012, the Indiana General Assembly passed legislation (see IN Code 6-1.1-35.4.5 below) that amended the Level III program requirements, including a provision allowing the Department of Local Government Finance ("Department") the authority to adopt temporary rules to carry out the approval of courses and course sponsors. The Department promulgated an emergency rule (see http://www.in.gov/legislative/iac/20121212-IR-050120658ERA.xml.html for the complete rule) that addresses the course requirements and course sponsorship.

Earlier this year, the Department approved the use or substitution of the Appraisal Institute's "Basic Appraisal Principles" class to be used in lieu of the International Association of Assessing Officers (IAAO) Course #101. The Department also approved the General Appraiser Income Approach course offered by the Appraisal Institute to be used in lieu of IAAO Course #102. Since the Uniform Standards of Professional Appraisal Practice (USPAP) course is not exclusive to the IAAO, successful completion from another entity, like the Appraisal Institute, would suffice.

The following are some Frequently Asked Questions regarding the Level III certification:

Question: What happens if a Certified Tax Representative does not get his or her Level III by December 31, 2013?

Answer: The Certified Tax Representative would lose his or her certification as a tax representative and would not be able to represent taxpayers/clients in a property tax appeal procedure before the Property Tax Assessment Board of Appeals ("PTABOA") or the Department. Provided the person is current in his or her continuing education hours, he or she can maintain whatever assessor/appraiser certification he or she had. In other words, the person would not lose Level II certification, unless revoked for lack of hours, but would not qualify as a tax representative. Certified Tax Representative status may be re-instated when the Level III status has been granted.

Question: Could a tax representative (who owns his own tax representation company) who did not get his Level III designation by December 31, 2013, employ an attorney to handle his appeals until that time he did get his Level III?

Answer: An attorney licensed in this state <u>does not have to have a Level III</u>. Only an attorney from out of state must be granted leave to appear pro hac vice. An out of state attorney may appear in an Indiana legal proceeding with leave of the court (or, in this case, the state).

Question: Can a tax representative firm president/owner seek out/sign-up clients even though he or she does not have his Level III designation?

Answer: Since "tax representative" is defined as a person who "represents another person at a proceeding before the property tax assessment board of appeals or the Department," a person does not have to be a Certified Tax Representative to generate business, as long as it is clearly disclosed that the person is not a tax representative.

Question: What are some options to complete the Level III course work by the end of the year? **Answer:** The IAAO has a "challenge" process, whereby the student is not required to take the entire week-long class but can "challenge" the exam only (see

http://www.iaao.org/uploads/SpecialExamApp_Challenge.pdf). In other words, the student may simply take the exam provided he or she complies with the IAAO directive. Also, as mentioned above, two (2) Appraisal Institute courses have been approved in lieu of the IAAO courses.

IC 6-1.1-35.5-4.5

Level three program; rules; course sponsor regulation

Sec. 4.5. (a) The department shall:

- (1) administer a program for level three assessor-appraiser certifications;
- (2) design a curriculum for level three assessor-appraiser certification candidates that:
 - (A) specifies educational criteria for acceptable tested courses offered by:
 - (i) nationally recognized assessing organizations;
 - (ii) postsecondary educational institutions; or
 - (iii) other education delivery organizations; in each subject matter area of the

curriculum; and

- (B) requires superior knowledge of assessment administration and property valuation concepts; and
- (3) carry out a program to approve courses that meet the requirements of the curriculum described in subdivision (2) and approve course sponsors that provide these courses. Only an approved sponsor may offer a course that meets the curriculum requirements for level three assessor-appraiser certification candidates. The department shall establish procedures and requirements for courses and course sponsors that permit the department to verify that sponsors and courses meet the standards established by the department and that candidates comply with these standards. The department shall maintain a list of approved sponsors and approved courses that meet the criteria for the level three assessor-appraiser certification curriculum designed under subsection (a)(2).
- (b) The department may adopt rules under IC 4-22-2 to implement this section. The department may adopt temporary rules in the manner provided for the adoption of emergency rules in IC 4-22-2-37.1 to carry out a program to approve courses that meet the requirements of the curriculum described in subdivision (2) and approve course sponsors that provide these courses. A temporary rule adopted under this subsection expires on the earliest of the following:
 - (1) The date specified in the temporary rule.
- (2) The date that another temporary rule or rule adopted under IC 4-22-2 supersedes or repeals the temporary rule.
 - (3) January 1, 2014.

As added by P.L.219-2007, SEC.76. Amended by P.L.146-2012, SEC.6; P.L.13-2013, SEC.17.

50 IAC 15-5-2 Practice requirements

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1

- Sec. 2. (a) In order to practice before the property tax assessment board of appeals or the department, a tax representative must:
 - (1) beginning July 1, 2001, be properly certified in writing by the department; and
- (2) have a copy of a properly executed power of attorney from the taxpayer. The power of attorney shall be on the form prescribed by the department and need not be re-filed if the form is later revised.
- (b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals or the department for:
 - (1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;
- (2) claims that assessments or taxes are "illegal as a matter of law", whether brought on a Form 133 under IC 6-1.1-15-12(a)(6), on a Form 17-T under IC 6-1.1-26-1(4), on a Form 130 under IC 6-1.1-15-1, or otherwise;
 - (3) claims regarding the constitutionality of an assessment; or
 - (4) other representation that involves the practice of law.
- (c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the department that they:
 - (1) are at least eighteen (18) years of age;
 - (2) hold a high school diploma or equivalent credential;
- (3) are a certified Level Two assessor-appraiser, but, after December 31, 2013, they must furnish evidence that they are a certified Level Three assessor-appraiser;
- (4) have completed the educational course requirements of all rules adopted by the department related to procedures for practice before the property tax assessment board of appeals or the department; and
 - (5) have fully complied with all rules adopted by the department regarding:
 - (A) professional conduct and ethical considerations; and
 - (B) client solicitation.
- (d) A person who fulfills the requirements of subsection (c) shall be granted a written certification that shall be effective upon issuance by the department.

(Department of Local Government Finance; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

If you have any questions, please contact Assessment Division Director Barry Wood at (317) 232-3762 or bwood@dlgf.in.gov.

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